IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

MFA.No. 205 of 2001

OA.45/1999 of FOREST TRIBUNAL, KOZHIKODE
.....

APPELLANT/APPLICANT:

LAKSHMI AMMAL, W/O NARAYANA SWAMY,
ARASOOR, COIMBATORE DISTRICT.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS/RESPONDENTS:

1. THE CHIEF SECRETARY, GOVT. OF KERALA,
   THIRUVANANTHAPURAM.

2. THE CUSTODIAN OF VESTED FORESTS,
   ARANYA BHAVAN, OLAVAKODE.

BY SPL.GOVT.PLEADER SRI.M.P.PRAKASH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 205 of 2001

JUDGMENT

Koshy, J.

The appellant filed a petition under Section 8 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (hereinafter referred to as 'the Act') for declaring that she is entitled to exemption from vesting under Section 3(3) of the Act. It is her case that she was having Exhibit A3 title deed. Prior title deeds are Exhibits A1 and A2. She has the intention to cultivate the land. The Tribunal found that her application is time barred. It has come out in evidence that in 1993 and 1995 the forest officials objected her from doing any work in the petition schedule property. She did not file any application before the Tribunal at that time. In any event, notification showing this land as private forest vested with the Government was published on 29.7.1977. Exhibit B2

Periohery sketch also was attached to it. Even after publication, at least within six months she ought to have approached the court. Her case that after her husband's death, she went to Tamil Nadu and came back only in 1991 is not a ground not to file application out of time. Even in 1976 the forest officials claimed the land as vested land, though notification was published only later. Whether the notification is published or not, all private forests in the State will vest with the Government on the appointed day (May 1971). The Commissioner found that there was no evidence of cultivation in the land in question. The Act came into force in 1971. The Commissioner visited the property only in 2000. In fact, the area was full of forest tress. Even though it was stated that the trees in the area are aged 5 to 7 years, there were big trees aged 25 years. The variety of trees made mention in the commission report shows that it is pucca forest land. In any event, her application

was time barred. The Tribunal also rejected her application on merits. We see no ground to interfere with the same.

The appeal is dismissed.

(J.B.Koshy, Judge)

9th July, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.205 of 2001

JUDGMENT

9th July, 2007